

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

KENESE SENE,

No. 1:17-CV-03081-SMJ

Plaintiff,

V.

UNITED STATES OF AMERICA,

ORDER DENYING DEFENDANT'S
MOTION TO DISMISS AND
TRANSFERRING CASE

Defendant.

Before the Court, without oral argument, is the Government's Motion to

11 Dismiss or Alternatively to Transfer Venue, ECF No. 8. The Government
12 contends that Plaintiff has failed to plead sufficient facts to state a claim for
13 medical malpractice liability under North Carolina law. Because this action arises
14 under the Federal Tort Claims Act, the Plaintiff must show that the United States
15 would be liable as a private individual under the law of the state where the alleged
16 negligence occurred—in this case, North Carolina. 28 U.S.C. § 2674. Because
17 Plaintiff could conceivably amend his complaint to satisfy the pleading
18 requirements, the Court denies the Government’s motion to dismiss Plaintiff’s
19 complaint.

1 In the alternative to dismissing the case, the Government asks this Court to
2 transfer the case to the Eastern District of North Carolina. Plaintiff opposes the
3 transfer. However, the Court finds that the interests of the parties and witnesses
4 and the efficient administration of justice dictate that the proper venue for this
5 matter is the United States District Court for the Eastern District of North
6 Carolina.

7 Accordingly, **IT IS HEREBY ORDERED:**

8 1. The Government's Motion to Motion to Dismiss or Alternatively to
9 Transfer Venue, **ECF No. 8**, is **GRANTED IN PART AND**
10 **DENIED IN PART.**

11 A. The Government's motion to dismiss Plaintiff's claim is
12 **DENIED.**

13 B. The Government's motion to transfer venue to the United
14 States District Court for the Eastern District of North Carolina
15 is **GRANTED.**

16 2. This matter is **TRANSFERRED** to United States District Court for
17 the Eastern District of North Carolina.

18 3. Defendant's Motion to Dismiss, ECF No. 5, is **DENIED WITHOUT**
19 **PREJUDICE** to renewal in the transferee court.

1 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order
2 and provide copies to all counsel, transfer this case to the United States District
3 Court for the Eastern District of North Carolina and close this file.

4 **DATED** this 22nd day of September 2017.

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7 SALVADOR MENDOZA, JR.
8 United States District Judge
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